



CONSTITUTION OF MONTANA -- ARTICLE XII

SECTION 1. AGRICULTURE. (1) THE LEGISLATURE SHALL PROVIDE FOR A DEPARTMENT OF AGRICULTURE AND ENACT LAWS AND PROVIDE APPROPRIATIONS TO PROTECT, ENHANCE, AND DEVELOP ALL AGRICULTURE.

Public Comment Montana Revenue and Transportation Interim Committee

May 3, 2018

Introduction:

Hello, my name is _____ I grew up on 40 acres on the East Shore of Flathead Lake. My parents were public school teachers and owned two orchards on their property with 1500 Lambert cherry trees. Our family did all the work in the orchards for 27 years until my parents decided to sell the largest orchard, remove the lower orchard, and subdivide some of the remaining property. They gifted me a one-acre lot on Flathead Lake which has 150 feet of frontage. This property has now been in my family for over 60 years. My mom and my brother are my neighbors.

History:

My husband and I built a modest 1800 square foot, 2-bedroom home on our lot, paid off our mortgage in 17 years and raised our only child there. In 2008, the property reappraisal saw our taxes skyrocket. We qualified for EPTAP three of four years, regretted and were embarrassed about needing to use it, and explored options to increase our income.

In 2012 we conducted our own feasibility study with regards to installing an orchard on a section of our property which had originally been part of my parents' former orchard. I emailed Lake County and the Department of Revenue extensively; my husband and I researched the cost of fencing, trees, and irrigation; consulted long-time local growers whom we knew; and, requested and received the Orchard Qualification Sheet detailing the practices one needed to follow in order that our orchard be considered a "viable and legitimate ag operation." (Orchard Qualification Sheet received from Lake County DOR Brittany Rech 11-12-12)

Being a former teacher, I am over-the-top about details. In an email to Brittany Rech dated November 13, 2012, I specifically told her our acreage, 1.14 acres, noted that we had an 1800 square foot home on the same property and asked her if there was a minimum acreage requirement were we to put an orchard on our property, that is would the orchard qualify for agricultural status. She responded that there was no minimum amount of acreage for a parcel to qualify. And yes, I still have this email.

So, we decided to become cherry growers in order to keep our property and to supplement our income. We took out a small business loan and used some of our savings to clear about one third of our property, on which we planted and fenced 110 Lapin Cherry trees in the spring of 2013. In 2014, a year after installing the orchard, we completed the paperwork requesting our property and orchard be taxed as agricultural land. These steps were all explained to us by DOR personnel. We received Conditional Ag Status and continued to improve our orchard by installing irrigation; prior to this we had hand-watered our trees throughout the summer. (one year of this)

DOR Rule Change:

In 2015, we again applied for the Conditional Ag Status and were denied based on a DOR rule change which had taken effect January 1st of 2015. The new rule mandated a minimum of 2 acres if the orchard and house shared the same property. It was a moot point it seemed that we had followed to the letter all the requirements on the Orchard Qualification Sheet issued by the very same DOR who had granted us Ag Classification in 2014! They were changing the rules mid-game and telling us our efforts, time, and money now meant nothing. Our property taxes reflected the loss of agricultural status, nonetheless we of course continued to care for our orchard, investing time and money.

Appeal of Property Classification Change:

We decided to appeal this reversal in ag classification because we had invested thousands of dollars and hundreds of hours clearing our property and planting our orchard. We had nothing to lose at this point. It was blatantly unfair. We had entered the cherry business in good faith, trusting the state of Montana.

The board ruled 2 to 1 against us, but their comments reflect the injustice of our situation which they recognized:

"Well, I have to say that by the letter of the law as I see it.... spectacular what you've done. Your intent obviously was to run a cherry orchard. It looks great. During the time that you were given what to do, you did everything you were required to do, and because of a change in the rule, not the statute, but the change in the rule, you're held against the standard that is different than what they told you, and as I said in the previous appeal, I find that to be unfair. I find it to be unconscionable. It isn't how these things ought to go. As a board all we can say is there is the rule and there was the law and onward and upward and go get them at the state level. I don't have any hesitation in saying that I think you should present your case as far as you can get it..." (P3 TRANSCRIPT, BEYER-WARD APPEAL pt-2015-4)

Board member: I agree with Mick and I know the only thing that's holding you back on this one is your acreage. In the great infinite wisdom of the people we send to Helena, they did not look at legitimate type orchards that are running. (P. 17 TRANSCRIPT)

Discussion occurred followed by vote: First Board Member: **Well, I still believe there should have been a grandfather's contingent, so on the basis of that, my objection would be to the fact that there isn't one, and I'll object to it.** (P. 18 TRANSCRIPT) Voted no.

Next member: noted they had to follow rules but agreed with objection.

Third member: **Yeah, I mean we've got to you know follow the rules and expect that you can appeal it to the State, and I'm assuming they have the authority probably where they can change the rule or ignore it or whatever, but we can't because we'd JUST GET IN HOT WATER.** (P. 18 TRANSCRIPT)

We asked the members about an attorney as we intended to move forwards to the State Tax Appeal Board. They could not legally reply but did say **"You have a very legitimate orchard, I feel, I mean it's excellent, excellent, excellent, but this is a rule they made in January, and I don't think they, the State legislature realized what was coming down the pike. They made it in a hurry.** (P. 18-19 TRANSCRIPT)

NOTE: Amanda Bertelson, Lake County Appraiser who in 2015 updated the 2009-2014 Orchard Qualification Sheet we'd used to reflect new two-acre requirement— told both boards that we had a beautiful orchard, we'd done everything required, we were only being denied based on change in rule regarding acreage.

MTAB:

After losing our appeal at the county level, we prepared for the third step of our appeal-- the hearing before the Montana State Tax Appeal Board. We did not hire an attorney because we could not afford one. This three-member board of experts found in our favor, ruling that the DOR had overstepped their bounds, and had made changes in language which were in violation of the statute. Our ag status was re-instated and eventually a portion of our property taxes (without interest) was returned.

I include the conclusions for the record from the STAB: Case No: PT-2015-4 Findings of Fact, Conclusions of Law, Order and Judicial Review _____ v. State of Montana, Department of Revenue

68 The record establishes that _____ run a bona fide agricultural operation which more than satisfies the only statutory criteria for agricultural classification: \$1500 annual agricultural revenue. DOR's promulgation of Mont, Admin R 42.20.601 (7) and 42.20.6283(12) (a) unlawfully exceeded the Legislature's intent and grant of authority by adding an acreage requirement where the statute explicitly sets only one qualification: \$1500 annual agricultural revenue.(p.16)

69 The rules arbitrarily deny agricultural status to orchards using modern varieties and growing techniques which despite their small size are capable of producing many times the statutory revenue requirement of \$1500 annual agricultural revenue. (p. 16-17)

Unfortunately, the DOR, using the ruling in our case and two others as a pretext, has decided to remove language which promoted responsible small agriculture, specifically vineyards and orchards to convince you, the legislature, that one need only plant a few sticks in their front yard to receive thousands in property tax breaks.

In a conversation with Lake County DOR's Amanda Bertelson, (whose honesty and help throughout our appeal process was outstanding and professional, despite being on the opposing side from us), I learned that there are people who yes, were taking advantage of the property tax reduction granted to small farmers by planting an orchard or vineyard but never bothering to care for it. Amanda told me how unfair that was to people like us who are true farmers. She noted that she attempts to find those people and remove their agricultural status. She complimented us and others on truly caring for our orchards/vineyards. I in turn thanked her for weeding out the cheaters. We, who take our agriculture seriously and who are proud of our contributions, want rules and regulations! We encourage sensible oversight of our businesses. Talk to Amanda. She is hardworking, smart and knows what's fair and right.

Similar Cases:

Two days ago, I learned that another Lake County couple in the exact same situation as us, that is an agricultural operation and a home on less than 2 acres, also received notice in May 2015 that their property no longer qualified for ag classification. This couple, as we had done in May 2015, communicated with Lake County DOR and informed the DOR that they would start their appeal process. Shortly thereafter, the couple received a phone call from a DOR representative who told them: **"If you drop your appeal, we will reinstate your ag classification."** **The couple agreed, and their ag classification was indeed reinstated despite such classification at that time being prohibited for people**

in their situation according to the rule change written and put into effect January 1, 2015 by the very same DOR who was telling us, the rule required a change for us from ag status to residential.

At first, I was sure the couple must have been in a different situation. Honestly, would the DOR, a Montana government agency be making backroom deals with people? Would they cite their own rule as justification to make one taxpayer (us) pay higher taxes and secretly strike a deal with another? Would they arbitrarily enforce the new rule for some people but not others? That just couldn't be.... It simply could not be legal, or at the very least, it was unethical.

How very sad I am to stand before you today and acknowledge that this did happen, and I have the proof in documentation and tax records. I cannot estimate the number of hours I spent preparing our appeals each step of the way. I did do calculations for lost wages for my husband who had to appear with me at these hearings and who has his own business as a general contractor, and I added in expenses for food, gas, color photo-copying, etc. I arrived at a conservative estimate of \$700. This would cover: cost of textbooks for one year for our college-enrolled child; or 6 weeks of groceries for my husband and me; or a summer's spray cost for our orchard....

I respectfully suggest to you as our state legislators that you investigate this, that you examine the role and actions of DOR. The rule change that the DOR made in 2015 was found to be illegally outside of their designated role, responsibilities and authority. Add that in with them making "deals" with some taxpayers and not others, and you have an agency which needs your attention.

Conclusion:

My husband and I are native, middle-class Montanans. We volunteer in our communities, we help our friends and neighbors. We work very hard, we are honest, and we pay our fair share. When our property taxes skyrocketed because out-of-state people who have a higher standard of living started buying up land around Flathead Lake and building mansions-- we did what we had been taught to do by our parents. We took on another job, a new business. We didn't complain. We simply worked harder to keep our land and our home.

We know that through our cherry business, despite not having a crop yet (as trees are young), that we have contributed thousands of dollars to the local economy and to the state of Montana through the taxes that others pay on their goods and services which we have purchased up to this point. Once our orchard does produce, we are hoping that we will gross \$10,000 to \$12,000. We are legitimate farmers and we deserve the same treatment, recognition, and assistance as other orchardists in our area. The costs and the risks are the same just on a smaller scale.

Thank you.

Orchard Qualification

The requirements for ag qualification are spelled out in Montana Administrative Rule, ARM 42.20.620. The property must have a minimum of 100 live trees maintained at all times using accepted fruit tree husbandry practices. When the application is filled out you are claiming to be an agricultural business.

The following practices are part of a viable and legitimate ag operation:

1. Minimum of 100 live trees at the time of my visit (I recommend planting at least 10% more to allow for mortality) *planted 110 in 2013*
2. Fencing around the perimeter of the orchard (deer can devastate an orchard in 1 night) *done*
3. Fruit trees require a lot of water so an irrigation system is usually necessary *done*
4. Pest control of some kind to insure the trees remain healthy *do as needed*
5. Adequate spacing of trees depending on the recommended distance for each particular species (typically 8, 10, or 12 feet depending on canopy) *11 feet between aisles
9 feet " trees (rows)*

Newly planted trees take approximately 4-6 years to mature and produce fruit. A property owner is given a "grace" period and may be monitored during that time to make sure there is still a minimum of 100 viable trees on the property. If you are only here 5-6 months out of the year you may need to consider having someone take care of the orchard during your absence.

The actual orchard will be classed in the continuously cropped 1A4 category. Excess land not planted to fruit trees and the 1 acre homesite (if any) will be the grazing category based on a soil survey of the property. The 1 acre farmsite will be assessed at \$1667. If the property is on the water, the valuation for the frontage will be deleted. The improvement value will be based on the cost approach to value. The ag land is a class 3 with the same tax rate as the full market valuation. The rate is phased in at 16.666% over 6 years (MCA 15.6.134). *1 1/3 acres*

One last important point is the time of year the trees are planted. The lien date in Montana is January 1. This means that property is taxed for what is in place as of January 1 of any given year. What does this mean to you? It means that if you don't have trees in the ground and actively growing by January 1, you will not qualify for ag that year. For example, if you plant trees in the late fall of 2010, you would file for ag status for the following year, 2011. If you plant trees in the spring of 2011, you would file your ag application for the 2012 tax year.

Michael F. Ward
Summary of Statement
Orchard Expenses in labor, time, money
2013 to date 2018
Helena 5/3/18

Businesses in our community who have benefited from our yet to be harvested cherry orchard:

Whitefish Credit Union
Bigfork Rental Inc
Kevin's Repair and Excavation
Francisco's Lawn and Orchard
Zavala's Lawn Care Inc.
Delayney's Nursery
CHS Supply
Costco
Mild Fence Company
Sliters Lumber & Building Supply
Rainman Sprinkler Systems (local franchise owner Jack Crookshanks)
MT Cooperative Development Center
Mission Mountain Cooperative/Lake County Community Development Center
Papa's Woods Bay Market
Dave O'Farrell Orchard Maintenance and Spray
Riley's
Flathead Weed and Pest
Flathead Lake Cherry Growers, Inc
Chrysler and Gordon, CPA
Hansen Excavating, Inc.
Murdoch's
Finley Point Grill

Michael F. Ward
Summary of Statement
Orchard Expenses in labor, time, money
2013 to date 2018
Helena 5/3/18

Cost in actual money spent locally 2013-today:	\$15,791
My Labor: \$40/hour estimate 450+ hours to date	<u>\$18,000</u>
TOTAL:	\$33,791

Expenditures in real dollars:

- loan and interest, (savings, pulled from education fund)
- machinery and clearing of property (two laborers + me)
- fencing, digging of fence holes, help with fencing
- purchasing of trees, laying out of orchard, augering/planting of trees
- three fertilizer balls per tree
- grass seed
- hoses to run from house to orchard to irrigate, trench digging to orchard for irrigation, trench under road, irrigation pipe and sprinkler heads, sprinkler contractor
- weed spraying, weed-eating,
- pruning and pruning equipment
- fertilizer and gas and chainsaw

Labor—cost to me/our household:

- researching/visiting with other orchardists about tree variety
- laying out of orchard
- clearing, burning, digging holes fence posts, trenching under pavement, laying pipe, pulling weeds, cup around trees for watering, watering, pruning, picking up prunings, fertilizing

COMMENTS: Just this year breaking even with the tax break; misconception of who we are and what we are doing and why; we are hard-working Montanans; tax loophole—at a cost of \$34,000? Time spent defending what we are striving to do—make a living! MT Constitution; volunteering and supporting those in our community

To: Montana Revenue and Transportation Interim Committee

Re: HB, 27, 28 and 29

Dear Committee Members:

My name is Andy Carstensen and, with my wife Deb, am co-owner of Diving Dog Vineyard.

I've been asked to provide some cost information regarding initial ground preparation, protection, irrigation and planting of small orchards and vineyards. I'm also to touch on annual costs for subsequent maintenance of such operations. I know there's a perception small orchards and vineyards reap huge property tax savings by simply putting a few sticks in the ground and calling it good. I'm here to tell you, the reality is somewhat different.

While I will speak to actual costs incurred by a small orchard owner in our group and those at Diving Dog Vineyard, in your materials there are some links to articles regarding costs. These articles, while a good starting point, are just that, a starting point. From my experience one can expect potentially huge variations in ultimate costs due to a whole number of factors. And I certainly don't see application of a "sliding-scale" to these published per-acre costs when estimating what you project could ultimately set you back. Each one's unique with varying circumstances. Smaller doesn't necessarily equate to cheaper. In fact, from my experience, the opposite's true.

While I believe some other people commenting today will also talk of their set-up and operating costs, I'll get the ball rolling with two examples. Both were planned, designed and built with the DOR's full knowledge and in accordance with their established rules regarding proper fruit husbandry practices. Once built and planted, both were examined by the DOR and subsequently awarded agricultural classification. At least in our case at Diving Dog, that classification was short-lived as in the first year after acceptance, we were notified of denial of subsequent agricultural classification for our vineyard. That was in 2015 and we've been fighting this (and losing sleep) ever since.

An Orchard:

Starting in 2012 and over the course of 2 years, one of our members built and planted an apple orchard. Direct investment for land preparation, fencing, planting, fertilizing, and irrigation totaled \$32,895. I might add this investment exclusively benefited local businesses. This figure doesn't include any allowance for the hundreds of hours of sweat equity invested.

Further direct investment in annual maintenance and again without a monetary addition for personal time has averaged roughly \$9,500 / year.

Diving Dog Vineyard:

Deb's and my costs to establish Diving Dog Vineyard are somewhat similar. We built in 2014 at a cost of \$34,298 almost all spent locally.

Since 2014 our annual maintenance costs have ranged from \$6,000 – \$8,000, again most all spent within the Flathead valley.

These figures don't include however our sweat equity. Once local loggers or fencing contractors left the scene, and as our neighbors can attest, Deb and I have done virtually all the work ourselves. Actually, that's not completely true, me, being a geologist requires more time on the road than at home, so the real sweat equity belongs to Deb. She's the one passers-by know and associate with all the effort that has made Diving Dog Vineyard a positive, picturesque element on Finley Point.

Diving Dog Vineyard and its grape production was envisioned and founded as a future retirement business. However, being a geologist has exposed me to some other potential value-added agricultural products besides our grape sales. We also have 120 various fruit trees and extensive raspberry beds and flower gardens as part of the business.

My work in Germany introduced me to their wonderful fruit-distilled vodkas. Desire to produce similar products has me thinking a distiller's license may be in my future during retirement as an end product for much of our other fruit production apart from the grapes.

Deb's involved with organizing and staging several weddings each year. For that, we grow and sell sunflower, peonies, and hydrangea, not to mention herbs and other greenery for use in floral arrangements.

Through Deb's involvement with weddings she's seen a distinct increase in interest in small-ag sites for destination weddings or other events. We're certainly seeing that at Diving Dog. Deb receives several calls a week with inquiries regarding suitable sites for small, private weddings. Vineyards and small orchards are quite popular for such ecotourism events, and Deb's currently working with Lake County officials seeking ways to tap this potentially lucrative, non-invasive market, made possible by the desirable nature of small ag.

Back to my main point for this meeting, that being grapes: here is the end, value-added product and concrete evidence of the hard work and investment Deb and I have put in Diving Dog Vineyard (hold up bottle and give it to then committee to pass around).

For the past two years Deb and I have sold our grape production to Hidden Legend Winery in Victor. This is our first bottling of Diving Dog grapes. It's a blended red with our grapes and those of Don Goodspeed's vineyard near Bigfork (another vineyard recently threatened by DOR's actions).

This is a true Montana product. Hidden Legend buys their supplies locally and the business and its employees are tax-paying. In addition, this particular bottle was purchased from a Montana store owned by committee member, Greg Hertz and from where tax revenues for the State are also sourced.

While Montana-grown products such as this are on the rise, most Montana wineries are still forced to go out of state to supplement their grape requirements for their wine production. From our contacts with vintners, all would certainly prefer to buy local grapes to be able to claim "Montana-Grown".

I'll call your attention to the letter in your packets from Bob Thaden of the Tongue River Winery located in Miles City. Bob is here today and will also present, but he has given his permission for me to conclude with his point that.....

"Montana can be small-minded and short-sighted, or Montana can embrace the possibility of a significant and growing fruit and wine industry in Montana on small acreages, significantly increasing the jobs and income to the State."

I couldn't have said it better. Thank you, Bob and thanks to the committee for my opportunity to speak.

Expenses incurred to establish and maintain vineyards



Diving Dog Vineyard Set up and annual operating and maintenance activities and expenses required meeting proper fruit husbandry practices. With guidance from Lake and Flathead County DOR, we moved forward with extensive investment into our vineyard in 2013 (\$34,298), add labor: \$12/hr. We do 98% of the work ourselves.

Sweat Equity: 250 hrs. x \$12.00 = \$3,000 plus \$34,298 = **\$37,298** for installation. We also purchased a tractor from a local dealer, adding \$21,000. **Total \$58,298.**

Annual upkeep: Pruning, harvesting, marketing, cleaning, repairs and general maintenance: \$6,000/8,000. MT Grape Grower's membership and annual conference fees and travel expenses \$150-300.

Typical costs to establish and maintain a vineyard:

Grapes require trellising, about \$10-15,000/acre; add site prep, irrigation, deer/bear fence, about \$15- 30,000/acre more. Then add annual costs of 750 hours of labor/acre, another \$10-15,000 per year every year plus fertilizer and chemicals. Add a tractor and spraying equipment; another \$20-60,000. Even small agriculture can have large expenses depending on the operation. Bottom line: Growers that produce income out of the ground, a renewable natural resource, deserve to have a fair agricultural exemption. During a 5-year what establishment period have growers document annually: setting up the Ag operation infrastructure, planting, weed and pest control, and progress establishing viable crops for sale. Growers need to use industry acceptable standards of crop production, not just plant it and see if it will grow.

Vineyard costs vary. Experts estimate that installation costs for a small vineyard can be anywhere from \$35,000 to \$45,000 an acre -- and frequently more.

<https://www.inc.com/ss/8-steps-to-owning-your-own-vineyard>

Growing Grapes by the Numbers Report details the costs of establishing a vineyard and producing wine grapes.

Read more at: <https://www.winesandvines.com/news/article/105157/Growing-Grapes-by-theNumbers>

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SUMMARY OF COSTS TO ESTABLISH & MAINTAIN A FRUIT ORCHARD
FRANK & MARY MUTCH, FINLEY PT. MT APRIL, 2018

This is a summary of the actual costs to establish and maintain a small fruit orchard in W. Montana as reported on IRS schedule F. Profit/Loss From Farming.

Work started on this in 2012 and continues every year-virtually every day. This small agricultural business requires a significant investment in time and money which is virtually all invested in the local Montana economy through local services/contractors, local purchases and many thousands of hours of our own individual and family labors. This business not only directly contributes to the local economy, but also provides fresh, wholesome, and desirable local fruit with the many well known benefits of the production and sale of a natural resource generating primary dollars which recycle many times in the local economy and directly contributes to significant tax revenues of all kinds. This is a serious business requiring sizeable investments in time and money. Fortunately, the Montanan Constitution provides for and protects such agricultural enterprises, small and large.

2012: In accordance with Montana Department of Revenue, DOR, guidelines and requirements to establish an orchard, work started in 2012. Main effort was clearing the orchard area and preparing the ground for planting. This provided new open areas and reduced fire hazards and diseased/dying timber and dense brush. Some marketable timber was sold to a small local limber mill which depends on such sources of logs.

Clearing, grading, preparation for planting. Total expenses, \$9,190. Sale of timber, credit to contractor, \$1,970
Net Expense, \$7,220.

2013: Planting, fencing, fertilizing, etc: First year for new trees. \$15,863.
Income, \$0

2014: Water well for irrigation: \$4,226. Maintenance, operation, supplies, etc.:
\$5,586. Total expenses: \$9,812. Income, \$0

2015: Expenses: Road repairs and gravel: \$2,000. All other expenses, \$3,379. Sales of fruit, \$80. Net
Expenses, \$5,229.

2016: Expenses: \$8,261. Sales of fruit, \$674. USDA program reimbursement, \$435. Net Expenses, \$7,152.

2017: Estimates: Maintenance, supplies, operations, marketing, legislative hearings, etc.: \$9,673. New Irrigation
system,
\$8, 212. Total expenses: \$17,885. Sales of fruit: \$1,668. Net expenses, \$16,217.

The net investment, so far is over \$61,000. In addition, we, as a family, have invested thousands of hours of our own work in every phase including construction, maintenance, planting, pruning, spraying, harvesting, and marketing. Our main markets have been schools and local area health food stores as we use organic methods. One of our customers harvests tons of apples per year for cider and they say our apples are the very best they have eaten. Four generations of our Montana family help with this work, including our great grandson who is just the right size to pick up the apples that fall under the trees.

Without the agricultural tax classification, rules that promote and facilitate small agriculture, as well as other government incentives and support, such an enterprise would not be feasible at all. This also holds true for folks with larger orchards and other similar small agriculture businesses such as vineyards, all over Montana.

As with all most of small agriculture family farming this is definitely a labor of love, a rich part of the Montanan culture and well worthy of protection and promotion.

May 1, 2018

Don Goodspeed 19571 MT Hwy. 35 Big Fork, MT 59911

To the Members of the Revenue Transportation Interim Committee

I have a small vineyard near Big Fork, Montana that I began in 2011 that now has over 200 vines on a property that is just over an acre in size. My vineyard contains a number of different grape varietals that I chose because of their proven success as cold weather varietals. I manage my vineyard by hand, do not use tractors or auto pickers and do most of the labor and maintenance of the vineyard myself with a work season that extends from approximately March into November each year.

The proximity of my orchard to Flathead Lake provides an ideal environment for growing cold weather varietals and after many thousands of hours I have managed to establish a successful vineyard that I operate as a serious business enterprise and sell my grapes to Montana wineries that produce fine Montana wine.

I am a member of the Montana Grape Growers Winery Association of which I have served as an officer. There is a fast emerging market for Montana grapes because they are of excellent quality and because Montana wineries that wish to label their wine "made in Montana" must use approximately sixty percent Montana grown grapes. As in many other cold weather states, Montana vineyards and wineries are growing at an impressive rate and will, I believe, become a major new economic asset and a source of significant additional tax revenue for Montana.

The growth, development and health of our industry; however, like that of much other agriculture in Montana has been fostered by wise and beneficial agricultural policies that have been implemented and followed by the Montana Legislature. It is for this reason that I write you to express my opinion as the owner/operator of a small vineyard regarding the future direction of desirable legislative policy for Montana's vineyards.

Please do not adopt "new" legislation that in pursuit of additional short-term tax revenue will devastate our industry and make it impossible for small growers to begin new vineyards or even continue to maintain their existing vineyards. Specifically, please do not adopt any proposed legislation that will establish a minimum acreage requirement for agricultural classification of our vineyards. As the Montana Tax Appeal Board (MTAB) found in my 2016 case, Goodspeed v. DOR and in the related Yeager and Beyer-Ward cases, modern technology and agricultural practices allow an abundant crop yield on small parcels. A small vineyard or orchard, properly managed, can generate very real, valuable agricultural production. The only reason for arbitrarily denying agricultural classification based on a minimum acreage requirement is short sighted and self-defeating; namely, short term generation of tax revenue that ignores the longer term tax revenue and economic growth that will result from fostering and encouraging our emerging industry.

Likewise, please do not adopt "new" legislation that increases the required annual revenue from mature vineyards above the present requirement of \$1,500. From experience with a relatively immature vineyard, I can assure you that it is difficult for a new vineyard to generate annual revenue of \$1,500. Despite my lavishing loving care and attention on my vineyard, it has taken 5 years for my vineyard to generate annual revenue of \$1,500 or more. I expect that as it matures revenue will increase but maturity comes only with time. Our neighboring states do not require annual agricultural revenue of more than \$1,500 and Montana should not either.

It is also essential to the growth of both Montana's vineyards and wineries that — as the MTAB held is required by Montana law in its opinion in Goodspeed — new vineyards must be allowed 5 years to grow and mature before being required to generate annual agricultural revenue of \$1,500. Otherwise, the cost of putting in and maintaining new vineyards is prohibitive if they are not allowed a 5-year grace period. Indeed, recognizing that vineyards and orchards are biologically incapable of generating agricultural revenue for approximately 5 years after they are planted, it was the uniform policy of the

Department of Revenue (DOR) to

allow such a grace period until after it lost three cases before the MTAB in 2016. Since then, contrary to the very holding of the MTAB in Goodspeed, DOR is now apparently unwilling to allow a 5 year grace period for new vineyards and orchards. Therefore, it is necessary that you change MCA 15-7-202 to explicitly require a 5 year grace period for new vineyards and orchards if our industry is to grow and prosper as it should.

As is the case in so many other cold weather states, Montana's vineyards and wineries are a potent source of future economic growth and tax revenue. In the Dakotas over 36% of their grape production comes from vineyards of one acre or less and vineyards and wineries now annually contribute millions of dollars to their economies. The growth of our industry in Iowa is even more spectacular, having grown from less than 10 wineries 25 years ago to over 105 today and providing 2,600 new jobs and hundreds of millions of dollars of overall estimated annual economic impact to its economy.

Attached to my letter are brief "executive summaries" from two studies done for the University of Minnesota and Iowa State University regarding the incredible growth of our industry in North and South Dakota as well as Iowa. As you will quickly note from these studies, the vineyard/winery industry is contributing enormously to the economies of these states, each of which in turn has enjoyed many additional millions of dollars in increased tax revenues from the growth of our industry. Should you wish to read these studies in full, they are available on line as follows: 1. www.extension.iastate.edu/wine/files/page/files/iowa2012 ei report final pdf and 2. www.extension.umn.edu/community/economic-impact-analysis/reports/docs/2014-vineyards-winerries-dakotas.pdf

IF Montana continues to follow its historic policy of encouraging and promoting all agriculture, our now emerging small vineyard and winery industry, like those in Iowa and the Dakotas, can and will enjoy phenomenal growth, contribute significantly to Montana's

economy and generate very substantial new tax revenue for Montana. Our agricultural policy for vineyards and wineries should not be penny wise and pound-foolish.

Accordingly, you should reject the misguided, short sighted pending proposals which seek to take away the agricultural classification of our small vineyards and orchards by imposing minimum acreage requirements and increasing the existing \$1,500 annual agricultural revenue requirement.

Sincerely,

Don Goodspeed

FULL ECONOMIC IMPACT OF IOWA WINE AND WINE GRAPES -- 2012

\$420 Million

IOWA WINE AND WINE GRAPES	2012 ECONOMIC IMPACT	2008 ECONOMIC IMPACT
Full-time Equivalent Jobs	2,678	1,777
Wages Paid	\$83 million	\$50 million
Wine Produced (Gallons)	296,900	186,700
Retail Value of Iowa Wine Sold	\$15 million	\$10 million
Number of Wineries	99	74
Grape-Bearing Acres	1,250	1,000
Wine-Related Tourism Expenditures	\$41 million	\$27 million
Number of Wine-Related Tourists	358,000	237,000
Taxes Paid: Federal / State and Local	\$42 million / \$26 million	\$14 million / \$14 million

Revenue:	2012	2008
Winery Sales	\$10,644,000	\$7,109,800
Retail and Restaurant Sales of IA wine	\$4,828,000	\$2,810,600
Distributors Sales	\$4,000	\$112,200
Tourism	\$41,432,000	\$27,452,500
Wine Grape Sales	\$2,500,000	\$1,260,200
Federal Tax Revenues	\$41,560,000	\$13,666,200
State Tax Revenues	\$26,306,000	\$14,464,500
Vineyard Development (excluding vines)	\$3,781,000	\$2,425,000
Charitable Contributions	\$106,000	\$71,100
Advertising/Marketing	\$773,000	\$90,000
Winery Services	\$375,000	\$285,600
Wine Research/Education/Consulting	\$604,000	\$545,000
Winery-Related Events and Other Revenue	\$2,052,000	\$949,300
Indirect (IMPLAN)	\$137,143,000	\$76,868,400
Induced (IMPLAN)	\$64,589,000	\$36,202,400
Total Revenue	\$336,697,000	\$184,312,800

Wages:	2012	2008
Winery Employees	\$6,108,000	\$4,990,700
Vineyard Employees	\$2,525,000	\$1,992,500
Tourism	\$6,397,000	\$4,787,000
Vineyard Development and Materials - Labor	\$567,000	\$363,800
Distributors Employees	\$0	\$359,500
Retail/Liquor Stores - Wine Specific	\$63,000	\$53,800
Restaurant Sales of IA wine	\$385,000	\$254,800
Winery Services	\$272,000	\$132,500
Wine Research/Education/Consulting	\$327,000	\$1,090,700
Indirect (IMPLAN)	\$45,775,000	\$24,801,300
Induced (IMPLAN)	\$20,668,000	\$11,197,900
Total Wages	\$83,087,000	\$50,024,500

Total	\$419,784,000	\$234,337,300
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Sources: Frank, Rimerman + Co., Iowa Division of Travel & Tourism, IMPLAN, Midwest Grape and Wine Industry Institute (MGWII), Bureau of Labor Statistics (BLS), Iowa State University, various Iowa wineries surveyed.

EXECUTIVE SUMMARY

IMPACT OF WINE AND VINEYARDS ON THE IOWA ECONOMY

The Iowa wine industry continues to grow as the number of wineries and cases produced both grew since 2008. The number of wineries in the state of Iowa grew from 74 in 2008 to 99 in 2012, an increase of 34%, while the gallons produced increased 59% from 187,000 gallons to 297,000 gallons in 2012 (or 125,000 cases). The majority of the industry's growth is coming from the addition of small wineries – wineries producing less than 5,000 gallons per year. However, a few of the state's larger producers increased their production over the past several years as well. According to the Alcohol Tax and Trade Bureau (TTB), Iowa was the 25th largest wine producer in the United States in 2012.

The wine and grape industry in Iowa contributed greatly to the economic strength of the state in 2012. Iowa's wine, grape and related industries had a total economic value to the state of \$420 million in 2012, an increase of 79% from the \$234 million economic impact in 2008. This increase in total economic impact is a result of an increase in direct jobs, increased wine production and significantly more induced benefit from IMPLAN multipliers. In addition, tourism revenue, wages and jobs all increased from 2008, consistent with an increase in both overall state tourism and the number of wineries in Iowa. As the number of Iowa wineries increases, so will the number of tourists visiting them. We estimate that roughly 358,000 people visited Iowa wineries in 2012, up 51% from approximately 237,000 winery visitors in 2008. Wine, grapes and related industries account for 2,678 jobs in Iowa with an associated payroll of roughly \$83 million. As shown below, most of these jobs were in the actual wineries and vineyards, as well as the tourism industry.

Table 2
Total Iowa Employment: Wine, Grape and Related Industries

Jobs:	2012	2008
Distributors	0	8
Research/Education/Consulting	10	13
Restaurants	32	22
Retail/Liquor Stores - Wine Specific	5	3
Vineyards	253	199
Vineyard Materials	23	14
Wineries	434	341
Winery Services	8	5
Winery Tourism	351	277
Indirect (IMPLAN)	943	540
Induced (IMPLAN)	620	355
Total Employment	2,678	1,777

Sources: Frank, Rimmerman + Co., Iowa Division of Travel & Tourism, IMPLAN, MGWII, BLS, Iowa State University, various Iowa wineries surveyed.

ECONOMIC IMPACT OF IOWA WINE AND WINE GRAPES

TOTAL TAXES COLLECTED

The wine and wine grape industry generates significant tax dollars, benefiting federal, state and local governments. Tax dollars are raised through sales taxes, excise taxes, income taxes, estate and gift taxes, payroll taxes, property taxes and other business taxes and fees. Iowa's wine, wine grape and allied industries generate \$42 million in federal taxes and \$26 million in state and local taxes in 2012, including almost \$2 million in total excise taxes. It is important to note that Iowa has the third highest excise tax rate on wine in the country.

Table 3
Estimated Tax Revenues

Type of Tax	Total
Federal Tax Revenues	
Excise	\$1,231,000
Payroll	\$13,614,000
Income	\$19,436,000
Other (corporate profits, etc.)	\$7,279,000
Total Federal Tax Revenues	\$41,560,000
State Tax Revenues	
Excise	\$520,000
Sales	\$7,841,000
Payroll	\$245,000
Income	\$7,634,000
Property	\$7,239,000
Other (excise, dividends, licenses, fines, etc.)	\$2,828,000
Total State Tax Revenues	\$26,306,000
Total Tax Revenues	\$67,866,000

TOURISM

Tourism continues to be a material factor in the Iowa wine and wine grape industry's overall impact on the broader state economy. Our survey of Iowa wineries estimates that over 358,000 tourists visited Iowa wineries in 2012. Supporting these winery visitors is a diverse labor force of approximately 351 employees with total wages of \$6.4 million. The continued increase of tourist visits over the past several years can be attributed to the increase in the number of Iowa wineries and continued improvement in wine quality, providing more destinations and opportunities for visitors to experience Iowa wine country.

April 30, 2018

Revenue and Transportation Interim Committee
PO BOX 201706
Helena, MT 59620-1706

Dear Committee:

Last Sunday, the bee guy was in our cherry orchard strategically placing his hives with his 3 and 5-year-old niece and nephew who were "helping" him work by peeking through his electrical fence device. A few days prior to that, the tree-trimmer was collecting the branch cuttings with his wife and their baby in his backpack. We hire people to fertilize and spray the pesticides. These are just a few who we have paid in the past week to help us run our orchard. All these hard-working Montanans will lose their income if the tax rate changes and the orchards subsequently disappear. We are just one small orchard; but multiply ours by the hundreds of growers and the loss of jobs and revenue would be a tremendous blow to the economy.


Our current AG status enables us to offset the costs of planting and running an orchard which in many cases makes little money each year. The lower property taxes make it worthwhile to continue the hard work of growing. Without the tax benefit, it would no longer make sense to carry on with little or no profit. Growers would remove their vineyards and trees to curtail their expenses.

I could go on forever extolling the attributes of our beautiful rural Flathead Lake area...the well cared for cherry orchards, the osprey and eagles, the clean water, the peace and quiet, the hard-working good people. The joy is ours, our children's and now our grandboy's. How fortunate we are to be a part of this paradise. It is this paradise that I so worry will be adversely affected if the small farmers lose the benefit of their agricultural status.

The loss of the orchards and vineyards would be devastating to the beauty, charm and intimacy of our area. Garages, out-buildings and houses would replace the lovely orchards and scenery that visitors have returned to for years and years. Flathead Cherries are our region's reputation and identity and have been for over a century. Montana must recognize the immeasurable value that they give to the state and how they enrich the land and economy.

In school, we learned that "for every action, there is an opposite and equal reaction." I believe the unintended consequences of changing the AG tax rules would be increased unemployment and the loss of our beautiful Flathead paradise. Not only is changing the rules unfair to growers; it is also harmful in the big picture to the entire community.

Sincerely,



Jane F. Yeager
31346 N. Finley Pt Rd.
Polson, MT 59860
billjaneyeager@gmail.com
909-225-0647



Tongue River Vineyard & Winery, LLC
Bob, Josh and Marilyn Thaden
137 Morning Star Lane
Miles City, Montana 59301

tel 406-853-1028

trwineryt@midrivers.com

April 16, 2018

Montana Department of Revenue, MT Legislature,

Friends,

My wife, son and I own and operate a small vineyard (3 acres) in SE Montana where we have produced and sold approximately 40,000 bottles of wine grossing almost \$650,000 over the past eight years. We realistically estimate that our business has brought in over \$200,000 of new "out of state" money into Montana. We've paid close to \$10,000 to the State of Montana in alcohol tax and permitting fees in that period of time. It has provided our son a full-time job making wine, and I work full-time in the vineyard.

Even though we produced over 12,000 lbs of grapes on our 2 acres last year, we still had to buy almost 10,000 lbs of fruit to make the wines we wish to sell. We've had to make fruit purchases in North Dakota, South Dakota and Wyoming as well as Montana to meet our needs. We'd prefer to buy it all in Montana, but there are not enough growers to meet our demand.

As the winery business continues to grow in Montana, this demand will only increase. We have purchased fruit from some of Montana's small growers around the Flathead, including cherries, raspberries and grapes. They are a vitally important part of our business plan.

These growers should be supported as agricultural producers and taxed accordingly. They are a vital part not only of the wine industry but other small manufacturers of juice and jam and jelly products, etc. To penalize less than 100 landowners for the small amount of additional tax revenue by denying them agricultural status their land deserves is very short-sighted for the state of Montana.

Finally, they started their agriculture businesses in a good-faith relationship with the State of Montana that the tax laws in place at the time would remain. Establishing a vineyard or orchard requires thousands of dollars and hours. If the state insists in punitively removing agricultural status from lands that qualified previously (minimum 100 fruit trees or 120 vines, and \$1500 income after 5 years), then the state morally and legally should be required to buy out the total expenses these growers have invested, including the fair-market value of their labor and the loss of revenue they would have made.

25 years ago there were less than 10 wineries in Iowa. Today there are 105, with an estimated \$420,000,000 economic impact. and 2600 full-time jobs. Montana can be small-minded and short-sighted, or Montana can embrace the possibility of a significant and growing fruit and wine industry in Montana on small acreages, significantly increasing the jobs and income to the state.

Sincerely,

Robert L Thaden for Tongue River Winery

As Montanans with small vineyards, we are writing to voice our views regarding your current study of the matter of agricultural classification of vineyards and orchards on parcels of 20 acres or less.

In that regard, we urge you to continue to pursue agriculture policy Montana has followed for many years and that we believe will soon yield great economic benefit to our State in the form of a vital new emerging grape/vineyard industry.

With your continued support, we believe that our vineyards and Montana wineries will prove to be as successful in our State as our counterparts have recently proven to be in other cold weather midwestern states. For example, a recent study by the University of Minnesota (www.extension.umn.edu/community/economic-impact/analysis/reports/docs/2014-vineyard-wineries-dakotas.pdf) shows that in 2011 the economic impact of vineyards and wineries in North and South Dakota had grown to \$26.4 million, including 665 jobs and \$8.8 million in labor income. (p. 2) And, like our small vineyards, more than a third of the grape production in the Dakotas came from vineyards of an acre or less (p. 7).

Iowa and other cold weather states have been realizing even greater economic benefits as our industry has grown. Iowa's estimated 2012 tax revenues from our industry totaled \$14 million; and generated full-time equivalent Iowa jobs of 2,678. (See Iowa State University commissioned study at www.frankrimerman.com/industries/wine-industry-research.asp)

With your continued support, Montana's vineyards and orchards can and will also generate big economic returns. To do so, we urge you to modify the existing agricultural classification statute, MCA 15-7-202, so that it explicitly requires a minimum of 120 vines (not a minimum acreage requirement), and allows five years for a newly planted vineyard to mature and be able to produce minimum annual revenue of \$1,500. Doing so will provide us the progressive agricultural policy that will both enhance Montana's economy and meet the Constitutional mandate that the Legislature promote all agriculture.

Respectfully submitted,

Rod & Linda Allen Allen Ranch Vineyard Hamilton MT

Laurie Bogart, Charles Pile & Corina Bogart Pile Two Crow Vineyard Arlee MT

Deb & Andy Carstensen Diving Dog Vineyard Polson MT

Mike & Teresa Dechart Shooting Star Vineyard Eureka MT

Tom & Bina Eggersperger Gut Craic Vineyard Thompson Falls MT

Aaron & Kasey Felder F Bar 3 Vineyard Laurel MT

Dan & Sheryl Getman Getman Orchard and Vineyard Bigfork MT

Don Goodspeed Eastshore Vineyard Bigfork MT

Alyssa & Ben Griffith Watchdog Winery and Vineyard Dixon MT

Rick & Pauline Hartman Beardance Vineyard Bigfork MT

Daniel Murphy White Raven Winery, LLC including White Raven Vineyards Columbia Falls, MT.

Don & Gail Nevins South Finley Point Vineyard Polson MT

Jorge Oaxaca Owner/ Winegrower Clark Fork Estates Vineyard Huson MT

Larry & Cindy Robertson Flathead Lake Vineyard & Winery Polson MT

Barry Roose & Vicki Frazier (No vineyard name yet) Fortine MT

Mike & Fern Sartori Dented Fender Vineyard Trego MT

Dick Sheremeta Buffalo Lane Vineyard Somers MT

Ken, Lisa & Joe Schultz Hidden Legend Winery Victor MT

Roxann & Brian McGuire Willow Mountain Vineyard & Winery Corvallis MT

Bob & Marilyn Thaden Tongue River Winery Miles City MT

Mike & Deb Tomell Crawl Space Cellars Frenchtown MT

Rich Torquemada Luna Llena Vineyards Stevensville MT

William Upthegrove Uppity Vines LLC Townsend MT

Doug Van Dyke Van Dyke Vineyard Bigfork MT

Wayne Westberg Beardance Vineyard and Orchard Bigfork, Mt

Grape Grower and Winery Owner Comments:

We would like to fully support your effort in addressing the issue of small vineyards in Montana. 4 years ago we planted our first 48 vines and have added to that each year since and are currently growing approx. 500 vines. We are located in the very northwestern corner of the state in Trego. Because we have had to clear some of our property to make room for your vineyard, we are only growing on approx. 2 acres which is not even close to 20. We had a limited harvest last year and we are looking forward to a larger one this year. Again we thank you for your efforts.

Mike and Fern Sartori

Dented Fender Vineyard Trego MT

I've added my name to your letter, however as I mentioned there's more to the revenue side of the ledger for the DOR if we can use our vineyards and or wineries for Agri-Tourism activities which will also generate revenue. Additionally, some may elect to have cabins or RV spots in time added to the vineyard/wineries which would in turn add bed tax dollars. Simply my request to Dept of Revenue would be to work with us so we don't starve the new infant prior to it reaching puberty. Thanks for all your continued efforts on behalf of the association. Last weekend Vicki and my daughter and I visited Windmill Winery in Florence Arizona. They are doing a good job of capturing a robust wedding venue business in the greater Phoenix valley area.

Barry Roose

325 Mud Creek Road

Eureka, Mt 59917

406.260.7109

To: Interim Committee, Revenue and Transportation, State of Montana

Re: Designation of specialty crop properties, vineyards and orchards, appeal

We are writing to support the efforts of Deb Carstensen and others as it pertains to reinstating the 5 year "grace" period for small vineyards and orchards. We have invested considerable funds, time, and "sweat equity" in developing a small vineyard. As part of a growing community of grape growers and Montana wine makers we are excited to see this homegrown industry expand. Being able to take advantage of the agricultural property tax designation was part of our decision to start the project, as a way to balance out a significant financial investment for start up. Creating impediments to make these agricultural projects seems counter to the goals of the strong agricultural history of Montana.

We hope that you will reconsider the adverse changes and other attempts to make it even more difficult to expand specialty crop ventures in our great state.

Respectfully, Don and Gail Nevin

dgnevin@msn.com, Leaning Pine Vineyard, 31671 South Finley Point Rd., Polson, Mt.

Mailing address: [2506 Valley View Dr., Missoula, Mt 59803](#)

ADVANCES IN CROP SCIENCE BENEFIT MONTANA WINEMAKERS

April 12, 2018 at 5:00 am | By PATRICK REILLY Daily Inter Lake



Polson grape grower Larry Robertson's vineyard on Finley Point is seen in the file photo. (File photo)

Last year, Eureka resident Barry Roose added a new venture to Montana's agriculture sector. But he isn't roping cattle or driving a combine harvester. He's tending a vineyard. ☐

"We just planted our first plants last year," he explained. "It takes a lot of prep to get there. You've got to loosen the soils, prep soils. It takes a lot of planning" before production can begin.

But he expects the wait to be worthwhile. "There's microclimates in Western Montana that are particularly suited" for wine production, he said.

A small but growing number of vintners agree. While wine production usually takes place in sunnier climates, they say that advances in crop science have given this craft a niche in Northwest Montana.

"What had happened in the past was that people had said, 'We can't grow grapes in Montana'... because they were using the European viniferas," or grapes, explained Pat McGlynn, Montana State University Agriculture Extension Agent for Flathead County. "They were trying Merlots or Chardonnay or Riesling," she said, all of which are ill-suited to the area's climate and soils.

But since the 1990s, scientists at the University of Minnesota and Cornell University have been developing "cold-hardy" grape varieties. The Northern Grapes Project, funded by the U.S. Department of Agriculture, has evaluated them since 2011, and studied the best ways to grow and market them.

In the early 2010s, Dr. McGlynn began researching these varieties' potential in Montana. She put together an advisory group of Montana grape growers, which grew into the Montana Grape and Winery Association.

At this group's conference in Kalispell last week, board member and Flathead Lake Winery owner Larry Robertson gave an update on the industry's progress. Since 2010, the number of Montana vineyards has increased from about 20 to over 50. Cold-hardy varieties, like Marquette and Petite Pearl, are the most popular.

Understanding how these grapes thrive in Montana is an ongoing challenge. "A lot of the research that is developed in the warmer climates ... doesn't really apply to us in Montana," said the association's president, Rich Torquemada, who owns Luna Llena Winery south of Missoula.

Much of their knowledge comes from McGlynn's colleagues in other northern states.

"We don't have anyone who's an expert on grapes in Montana, especially when we started this in 2011, we had no one, so I had to go out of state in order to get the information to bring back."

This work isn't likely to make Northwest Montana the next Napa Valley. Robertson estimated a Montana vineyard's average size at 1 acre, foreseeing "much smaller vineyards and more unique areas of grapes with smaller wineries" than in other wine-producing regions.

But he and other association members see that as an edge, voicing optimism that a cluster of small, unique wineries could lure visitors. "We can have a niche here in Montana that blends well with tourism and provides the small farmer with another source of income," Torquemada predicted.

Discussing the sector's growth, Robertson said, "I think that's going to be of great benefit to our state."

Flathead Lake Vineyard & Winery

Larry Robertson

26 ½ Fiorentino Ln, Polson, MT 59860

April, 18, 2018

Montana Dept. of Revenue, MT Legislature,

Dear Friends,

I own Flathead Lake Winery in Polson, a small 1/4 acre orchard in Polson, and lease the historic 2/3 acre Page vineyard on Finley Point on Flathead Lake. The vineyard is part of a larger agricultural enterprise but my Polson orchard was denied agricultural status erroneously because of local zoning, which violates the Montana Constitution. I just licensed my winery in July 2017 and my vineyard is just starting to produce a few grapes with full production still 2-3 years away. I will be able to grow only about 50% of the fruit needed in my winery and will need to purchase the rest from other Montana growers including grapes, sweet and sour cherries. I will always rely heavily on other fruit growers to sustain my winery business in order to become successful.

Specialty crop enterprises, not just orchards and vineyards, allow small agricultural producers to supplement their annual income which adds significantly to Montana's economy. Small agricultural producers are trying to earn a living from the land to help support their families. These hard working citizens across Montana produce enough off small parcels, often less than an acre, to generate thousands of dollars of income. Agricultural land tax exemption rules need to protect these enterprises according to previous rules in compliance with the Montana Constitution.

Grape Research Grants- Providing evidence for the viability of wine grapes in Montana

Pat McGlynn, Flathead County Extension Agent, secured a grant in 2012 to research cold hardy grape varieties for use in western Montana. The research study confirmed that many areas across Montana are suitable for growing cold hardy grapes, which are hardy to 30 or 40 below zero. I have worked with Pat since 2011 when this project started.

The Montana Grape and Winery Association (MTGWA) was formed in 2015 as a result of the grape research trials in which several growers and wineries were involved with. The MTGWA helps direct development of a home grown grape and wine industry in Montana including co-sponsorship of the USDA Specialty Crop Block Grant mentioned below. There were roughly 20 vineyards prior to 2012 when the grape trials started and in just over 5-6 years there are over 50 today, at least 40 of commercial significance. The average Montana vineyard is currently under an acre.

USDA Specialty Crop Block Grant (SCBG) Awarded in 2017:

The Western MT Ag Experiment Station in Corvallis, in partnership with MTGWA, was awarded a \$130,000 grant to research cold hardy grape water use and stress in order to grow the best quality fruit possible. The project runs for three years which started in October 2017 and anticipates developing best management practices for quality grape production in Montana. The grant will also analyze small fruit varieties in producing quality wines. Montana's semi-arid climate is perfect for potentially growing the highest quality cold hardy grapes in the United States, given our climate.

Other Midwestern states have supported the expansion of their grape and wine industries which generate millions of dollars to their economies in grape/fruit production, wineries, agro-tourism and other ancillary benefits. Montana should be encouraging growth of the grape and wine industry, not discouraging it! It begins with encouraging small and large scale fruit production into value-added products including wine.

Montana's home-grown wine and cider industries are expanding:

In 2003 Montana produced 1000 gallons of wine, in 2016 it had increased to about 35,000 gallons; Montana now ranks 40th in US wine production. Most grapes for wine currently made in Montana come from out of state sources, mainly Washington. Today about 18 wineries are operating in Montana with only a few producing wine from Montana grown grapes and fruit. The success of Montana's wine grape and fruit industry is dependent on expanding fruit production for wineries.

The cider industry is also rapidly expanding in Montana. Like cold hardy grapes, apples can be grown across Montana. Several new cideries have been established with more planning to open soon. Though some cider apple orchards are larger operations most will likely be smaller operations similar to vineyards. Cideries, as with wineries, also have potential to add significantly to the agri-tourism industry.

The 5-year Establishment Rule

I'm using the example of cold hardy wine grape production, but other specialty crops such as apple, cherry or other fruit orchards, haskap or other perennial berry production also relate. Growing grapes in Montana requires significant infrastructure investment and several years of labor and expense nurturing vines to start producing a marketable product. Eliminating the 5 year establishment rule has already discouraged several vineyards I work with from starting.

Small agriculture can have large expenses depending on the operation. Grapes require trellising, about \$10-15,000/acre. Site prep, plants, irrigation, deer/bear fence; add about \$15-30,000/acre more. The annual costs of 750 hours of labor/acre, plus fertilizer and chemicals can add an additional \$8-10,000 per year every year. Add a tractor and spraying equipment, another \$10-60,000? Bottom line: Growers that produce income out of the ground, a renewable natural resource, deserve to have an agricultural exemption. More support and encouragement is needed to promote small agriculture in Montana, like other states do, instead of trying to find ways to inhibit or reduce their potential contribution to Montana's economy- it's time for a major attitude change.

Sincerely,

Larry Robertson

Flathead Lake Vineyard & Winery

April 27, 2018

To: Montana Revenue and Transportation Interim Committee Re: HB 27, 28, 29

Dear Committee Members,

As I write this letter I am reminded of the importance of keeping a journal especially where farming is concerned. Looking back I am surprised at how fast time passes and how much has been accomplished in the last 23 years. In 1995 we purchased a rocky 3 acre parcel on the east shore of Flathead Lake. We knew nothing about the business of growing cherries including the Lake County agriculture property tax incentive available to those who chose to develop their land in that manner. There was no rationale to our decision-making. In our ignorance we simply asked ourselves "how hard can this be?" As it turned out, there were never enough hours in the day or funds in the bank but what we did have were kind generous neighbors and the Lake County agriculture property tax relief, which became a critical component for us to succeed. We no longer have the original orchard but what we learned about growing quality fruit on a small scale is tantamount to an agriculture college course with an emphasis in business and finance. Our current 3-acre orchard has been in production since 2006 and is located directly across Highway 35 from the original farm.

What I know for sure...I am convinced that not only through the purchase of land, but through the purchase of goods and services, tomorrow's small grower will be investing in Montana's future and in his or her community, while the established small grower in the same community will continue to invest in those capital improvements that will ensure continued production of quality products. Regardless of acreage, the purchase of goods and services as it relates to farming, much the same as other businesses, has a positive affect on every community in every county in Montana. In addition, seasonal employment generated annually by even the smallest grower adds to the coffers of every community.

Through good farming practices and a commitment to consistent high quality fruit, grocers across Montana have come to depend on the Flathead Lake cherry for their customers which in turn increases their bottom line. Our reach is not simply local but international. I believe that what makes our fruit exceptional is the hands on approach by growers found in our smaller orchards of 10 acres or less. I believe this to be true for growers of grape vines, berry varieties or fruit trees. It is an intimate relationship that can only be achieved in small scale.

Large or small, agriculture at its heart is farming and large or small we all face the same

issues. Unseasonable weather, poor markets, crop related diseases, etc. We, as a state with so much to offer, should be encouraging agriculture practices whenever and wherever possible to those who wish to pursue farming regardless of scale. We are finding through Montana State's agriculture research and development programs improved ways to produce more on less acreage. Is it Montana's intent to grow our agriculture 'stature' on the world stage or be looked upon as discounting the legitimacy of our own new and innovative discoveries?

Our margins are already thin. For many of us, this additional tax burden would bring about the end of what we are most proud of...our resilience, love of the land and desire to contribute. Everyone who wishes to farm cannot afford 20 or more acres but that does not mean that they cannot contribute in a very meaningful way on many levels. I find this legislative approach especially sad when farming has always been our history, our heritage.

Respectfully,

Linda Spradlin Herb & Linda Spradlin 22800 MT Hwy 35, Bigfork, MT (406)261-1503

To: Montana Revenue and Transportation Interim Committee

Re: HB 27, 28, 29

Dear Committee Members,

I Kathy Boiteau, stand before you today, representing Skipping Stone Orchards LLC, a family owned orchard and agricultural business. My husband Claude Boiteau and myself along with our two adult sons Claude III and Jacques manage and operate the orchard which is located north of Woods Bay on the east shore of Flathead Lake. The property which consists of approximately 5 acres (1 acre currently in orchard production) has been in the family since 1955. Cherry Farming is only one of our many jobs. All of us have fulltime professional employment which keeps us busy in addition to the orchard work.

To make our time more productive, and our resources stretch further, over the past year we began researching the possibility with other small growers in our neighborhood of forming a Co-op. We did not undertake this effort on a whim, or without serious thought. Let me take a few minutes to explain what we have gone through while we researched this prospect.

Initially, we began meeting casually with 4-5 other growers after last year's harvest. At these meetings we discussed the ideas of working together, sharing equipment, and possibly forming a Co-op. Next, we planned and executed three meetings in person with Co-op experts to educate ourselves on what a Co-op is and how it would benefit us as Cherry Growers. This was at a minimum fifteen hours of discussion and education. Afterward we set to work on drawing up a set of by laws and articles of incorporation for our Co-op. This is a time-consuming process that has taken over six hours of e mails between the growers involved to get the proper language, terms, and agreements ironed out. Forming the Golden West Growers Co-op will come with an added cost on the front end. There are filing fees and initial investments from all growers that we have not yet finalized, but could run as high as \$1500 per grower to join the Co-op.

Last year we tested leaf and soil samples to determine how we could improve our soil at a cost of \$148. This season we ordered fertilizer based on the leaf sampling, and as a group of growers we purchased the fertilizer together through CHS at a cost of over \$174. We have purchased chemicals to control the grass in our orchard which cost over \$105. Annually we spend over \$700 on spraying and pruning and this year we will add picking to that total. We have spent countless amounts at the local family owed Sliters Hardware on fencing items and irrigation parts. To date we have spent over \$30,000 on our orchard without receiving one dollar back in return. We organized a pruning clinic with Denise Bowman, so we would be better educated on how we want our orchards to be pruned. We attended the annual FLGG meeting, as well as the AG/GAP meeting. We have trained and completed the county sponsored Safe Handling of Produce Clinic. We are looking at purchasing equipment such as ladders, buckets, boxes and harnesses as well as a refrigerated truck to further our marketing capabilities. We met with the Mission Mountain Co-op center in Ronan regarding the use of their walk-in coolers for pre market sale point storage. Finally, we have contacted possible outlets to sell our cherries once our crop is harvested.

As you can see, we have taken the ownership and operation of Skipping Stone Orchard as a serious agricultural business! The steps that we have taken to try and form Golden West Growers Co-op show that we intend to follow good agricultural practices by maximizing efforts to spray, prune, fertilize, pick and market our product at an affordable price. As small growers, we offer a quality product, recognized statewide, and even around the world. We are doing our part, we urge the committee to support all agriculture in the state of Montana as the state constitution dictates.

Thank you,

Claude & Kathy Boiteau

Skipping Stone Orchard LLC

13931 Sylvan Drive

Bigfork, MT 59911

To: Montana Revenue and Transportation Interim Committee

Re: HB 27,28,29

Dear Committee Members,

Thank you for giving us a few minutes of your time today to listen to our concerns regarding the Agricultural Tax incentive program.

My name is Claude Boiteau Jr. I have lived on the shores of Flathead Lake most of my life. Except for some time spent in Missoula pursuing my college degrees and a few years in Denver, Bigfork has been my home. My parents purchased the property that I currently live on in 1955. Back then, we were one of a few houses on the county road. As a boy I was able to own a horse, roam the hills, swim in the lake. It was an idyllic childhood. The property my parents purchased included an old log house, an orchard and a garden. In 1938 when power first came to the east lake shore, a water system was installed that pumped water from the lake, to the cabin, and up to the orchard into a cement reservoir. This water was utilized for household use year-round.

My father died in 1972 and left my mother to take care of a large piece of property. It was up to me and my wife Kathy to step in and help the best we could. In 1981 we moved back to Bigfork to shoulder this responsibility and raise our family.

As you well know, times have changed on the shores of Flathead Lake. We now have neighbors from Houston TX, Connecticut, California, and other far flung areas. I have worked full time in the Furniture Industry traveling four western states and the province of Alberta. I have made a living, supported my family, but we are not wealthy people. Our business is tied to local and international economies, and we were hit hard by the 2008 recession.

When the state reassessed property taxes in 2009 we were shocked to find that our taxes, on the family property would be increasing by a factor of four. With a widow in her late 80's and two college aged sons our future on the property seemed to be in doubt. We simply could not afford to stay.

The solution, and our family's continued existence on Flathead Lake appeared to rest in the past. Utilizing the still viable field irrigation and water reservoir, we chose to replant the orchard. While we hired the 110 trees to be planted, we completed all other property improvements in house and by hand. I hauled 200 wheelbarrow loads of remnant gravel from tree planting operations. This number is salient; I counted. The perimeter fence posts were re set in cement, and fencing stretched. And I expanded the irrigation system to include the individual tree water and a signal controller. In the process, I compromised my personal health. My ankle was replaced in 2014, and subsequently fused in 2016.

The Montana Agricultural Property Tax Incentivized us to become orchardists. The agricultural tax status it afforded allowed us to invest in our property. And the reduced tax burden it provides, combined with the small profit we hope to realize from cherries will save our property for future generations.

Now, that the orchard is reaching maturity, we are making plans to market our cherries. However, we find future of the Small Grower the Agricultural Tax Incentive to be unclear. We have poured our efforts, money, and spare time into this project. For me it has been a literal "life changer". I **urge** the committee to continue to support all agriculture, especially small growers, through the Tax incentive program. Large or small, Agriculture is the heart of Montana's heritage.

Claude Boiteau

Skipping Stone Orchard LLC

13931 Sylvan Drive

Bigfork, MT 59911

May 3, 2018

65 Montana Legislature

Revenue & Transportation Interim Committee

RE: Study of changes to taxation on agriculture property.

Madsen Orchards Inc. is an S corporation whose primary business is to raise cherries for commercial market. M. David Madsen is the president and sole shareholder of the corporation.

HISTORY

Madsen Orchards was founded in 1963 by Merlin and Mae Madsen with the purchase of a working orchard from William Kruckeberg. The original orchard had approximately 500 trees. The orchard was expanded in 1967 and 1973 to an approximate total of 1000 trees. The severe winter of 1988 resulted in the death of most of the trees that were planted before 1973. After the death of Merlin and Mae, David Madsen took over the management of the corporation in 1991.

RECENT ACTIVITY

In 2006 Madsen Orchards planted 160 new trees (Sweethearts) at a capital expense of \$22,149. In 2014 the business replaced old Lambert trees with 165 Sweethearts at a capital expense of \$14,180. There are 205 Lambert trees remaining that were planted in 1973.

FINANCIAL

The cherry business should be considered as high risk. Market conditions vary greatly from year to year. For example, in 2016 Madsen Orchards harvested 27,338 pounds for a gross revenue of \$38,235. After expenses (picking, spraying, taxes, act.), the farm had a loss of \$7356. In 2017 the harvest was 34,466 pounds for a gross revenue of \$20,763. After expenses the farm had a loss of \$31,434.

Weather is also a major risk factor. Rain near or during harvest can result in total crop failure. Cold weather during blossom can result in a very light harvest.

IMPACT OF TAX LAW CHANGE

One proposal that has been considered is to remove one acre for a home from agriculture under an improvement to market value. Taxes on Madsen property would more than double, since the one acre is lake shore property. If this happens, there is no way to justify remaining in the cherry business.

Madsen Orchards, along with many other small growers, would exit the cherry business. This would result in the snowball effect on the local economy. Small businesses that provide fertilizer, spraying services, fencing, transportation, ect. would be affected. The significant reduction in migrant workers would reduce seasonal sales at local merchants, Tourism would be affected, since many of the small orchards attract people during harvest.

The Flathead Lake microclimate provides a prime area for fruit production. Agriculture is expanding beyond cherries to other fruits such as grapes, apples and pears. Changes in the property tax will have a significant negative impact on the growth of agriculture.

It should also be noted that not only the Flathead will be affected. Property values near our major cities have soared in value. Small farms in these areas would be at risk.

SUMMARY

Small agriculture, when aggregated, is a very large contributor to the Montana economy. Unwise changes to our tax laws will have a negative effect on this growing industry.

There is no doubt that some individuals have planted a few trees or vines for the sole purpose of tax evasion. However, there are better ways to stop this abuse than raising taxes on legitimate small farming operations.

David Madsen

In the Flathead we have the cherry orchards and grape vineyards that deserve the small agricultural exemption, as do the small acreages in the Bitterroot where I live, which are producing organic food. Even better, Hamilton growers have gone non GMO ! (We've been fed GMO foods for over twenty years without knowing it! The body can't assimilate them properly so it has caused many health problems.) People are finally realizing what GMO foods have done to them and are beginning to clean up their diets. They are flocking to local farmers' markets looking for healthy veggies.

If people who are screaming for health care start eating better, they will improve their health and get off of medication's that are really harming them, and the cost of health care paid out by the state will drop. Maintaining the small ag parcel tax deduction will also help families not only work together but have an income. This could help some people get off of welfare and contribute to society. So it is a win/win situation.

Also, people are finding great health benefits from cherry and grape juices! Grapes contain a powerful antioxidant compound that helps get rid of the body's free radicals which cause cancer and other degenerative diseases. These fruits cleanse the body and raise the PH's. (Disease thrives in a low PH which is an acidic environment because it lacks oxygen.)

It's not fair to take the ag exemption away from hard working Montanans and let out of state millionaires build mansions here and avoid their tax obligations by planting pretend orchards. Since they can afford the mansions, they can afford the full taxes that will help make up the revenue lost on Kerr Dam.

Carol Lawrence

Anyone who has ever seen the Flathead has fallen in love with the area. Many of us have hearts with very deep roots here, just as my family has for generations past and generations to come. In 1954, Dad's boss sold him a choice lake front property in Yellow Bay as an incentive to remain with his company. Our family began spending every good weekend and every summer here from then on.

When my twin brothers were old enough, they began working in the cherry orchards that cling to, and carpet the toes of the magnificent Mission Mountains bordering Flathead Lake's east shore. My sister worked in cherry stands that dot the narrow ribbon of its highway, while I worked at the Holiday Resort and U of M Biological Station. It was Dad's dream to buy one of the orchards, not only to prevent the area from becoming Lake Tahoe polluted by wall to wall houses, but also to preserve the agricultural presence in Montana. We were all proud to be a part of Flathead's unique culture and community of fruit growers who pull food from the ground and contribute to the economy, not only locally, but worldwide now.

The freeze of '88-'89 took a heartbreaking toll on the cherry trees, forcing many to sell off their orchards, thus opening the way for rich, productive land to be covered over by houses. Finally the state began offering incentives to orchardists to reignite the economy by replanting the cherry trees. Our family eventually planted a dwarf cherry orchard, complying with the regulations, and we qualified for the agricultural tax exemption, only to find that the rules are subjective. There are those who want to tax Montanans off of their property and pollute the lake with big well-taxed houses, thus wiping out rich, productive land- --starting with us "little guys" first.

Call me Scarlett O'Hara. I have returned home to Tara, and I will not let it go for taxes! None of us should. We must stand together and continue to feed our nation, not pave over our land, no matter its size.

Respectfully submitted for the Tweto family by Carol Lawrence

To: MT Revenue and Transportation Interim Committee

May 1, 2018

Dear Committee Members,

My name is Deb Carstensen. My husband Andy and I farm a small vineyard, orchard and gardens next to Flathead Lake. I have appeared before you twice (and I do thank you for that opportunity). I have no wish to waste more than my fair share of your valuable time. I will make this short.

There is a perception of small Flathead lake farmers painted in Helena: We are wealthy, out of state lake property owners wanting to take advantage of agricultural tax classification to avoid paying our fair share. My fellow farmer's have testified to the contrary. Many more of us could not make the trek to Helena and we implore you to read their letters (in our packet).

My reality is putting my husband on a plane to work overseas to make ends meet about 7 months a year. That leaves me to prune, spray, mow, weed, fertilize, repair irrigation leaks, trellising, etc. etc. pretty much by myself, on top of a part time job. I am not asking for your pity here. I never inherited anything from my mom & dad but a work ethic, perseverance and importance of public service. I am living the dream. I signed on for this duty.

What I (we all) did not sign on for is the constant worry about the surprise the next tax bill (we can't afford) will bring. I will never forget mu husband opening the letter from Lake County DOR matter of factly changing our lives by saying we were denied Agricultural Classification. He looked at me and said, "What are we going to do now". It is a sickening sense of shock and rejection I wouldn't wish on anyone. We are ALL honorable, hard working people. We did everything by the books.

Keeping track of what you all are doing in Helena, scheduling meetings with our representatives, and appearing here has become a part time job on top of the 12-14 hours I work a day. At 62 years old I am working harder than I ever have in my whole live. I don't mind physical labor, it is the stress of having to fight for what we deserve....I do not deserve this, none of us do.

To us this matter is really pretty simple- We are asking you to ABIDE by the Montana Constitution Article 12. You took an oath to Protect, Enhance and Develop All Agriculture. Work WITH us to Protect and enhance the rural character of Flathead Lake, other MT crown jewels and fourth generation family farms. Because if we go down, bigger orchards are next and our beautiful pristine bucolic Last Best Place becomes nothing more than a high-end sub division. Work with us to develop a fledging wine and cider industry.

We are not asking for a hand out. We are a proud hard working group. We have paid our pound of flesh. All we are asking for is fairness. Leave us with what we were promised by working with the Department of Revenue.

There is a silver lining for our fellow small farmers: Together we are better. We all come from such diverse backgrounds, world experiences, religious and political beliefs. (if you saw the yard signs in our and Frank's properties you would think, how can these people even talk to one another. Nothing binds people like adversity and fighting for what is fair. Right is might.

We are growing. We aren't going anywhere.

Because at the end of the day--nothing good ever...comes easy.

Sincerely,
Deborah Carstensen
Diving Dog Vineyard
31542 N Finley Point Road
Polson MT 59860
406 887 2690